

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

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AUG 24 1995

In re)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations)
(Cambridge and St. Michaels, MD))

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

MM Docket No. 92-291
RM-8133

TO: The Commission

APPLICATION FOR REVIEW

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August 24, 1995

CWA BROADCASTING, INC.

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SUMMARY

The Acting Chief, Allocations Branch, refused to grant CWA Broadcasting, Inc.'s request to reallocate FM Channel 232A from Cambridge to St. Michaels, Maryland on the ground that, somehow, this proposal would violate a Commission policy stated in MM Docket 88-526. The Chief, Policy and Rules Division, Mass Media Bureau, turned down CWA's "Petition for Reconsideration" in a mechanistic decision reached without guidance by any case law of the Commission *en banc* and with total indifference to the plight of a minority broadcaster attempting to construct an FM Broadcast Station to serve the minority population of Maryland's Eastern Shore.

In this "Application for Review", it is amply demonstrated that the Mass Media Bureau's reason for denying this reallocation does not exist on the facts in the record of the Cambridge, Maryland licensing proceeding, Docket 87-421. Docket 87-421 did not turn on "civic activities"; the decisional preferences in the case were the minority status of CWA's 100% stockholder, Charles W. Adams, Jr., and his four decades of day-to-day experience working in radio

broadcast stations. And even if it could be argued that the case did turn on "civic activities", only one of Mr. Adams two civic activities is outside the 1 mV/m contour of a proposed St. Michaels operation: the Cambridge Black Elks Lodge. The Easton Black Elks Lodge is located within the 1 mV/m contour of both WFBR's authorized facility and the proposed St. Michaels operation. Moreover, were the Cambridge licensing proceeding to have been for a station at St. Michaels, CWA would have been entitled to even greater qualitative enhancement credit, as Mr. Adams residence in Annapolis, Maryland is within the 60 dBu contour of the proposed St. Michaels operation (See Exhibit A, attached hereto.

Moreover, the Mass Media Bureau ignored the standing policy of the Commission and a July 26, 1994 speech of the Chairman of the Commission by failing to aid and abet the development of minority owned and operated broadcast stations; the granting of CWA's "Petition for Rulemaking" would have aided and abetted the construction and operation of WFBR.

Therefore, this "Application for Review" must be granted.

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APPLICATION FOR REVIEW

CWA Broadcasting, Inc. (CWA), permittee of FM Broadcast Station WFBR, Channel 232A, Cambridge, Maryland, by its attorney, and pursuant to Section 1.115 of the Commission's Rules, hereby respectfully submits this Application for Review of the following rulings: (1) the **Memorandum Opinion and Order**, DA 95-1594, 10 FCC Rcd --, 1995 WL 433989, released July 25, 1995 by the Chief, Policy and Rules Division, Mass Media Bureau denying reconsideration of (2) the **Report and Order** of the Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau in the above-entitled matter, DA 94-603, 9 FCC Rcd 2767, 1994 WL 269593, released June 17, 1994, dismissing CWA's *Petition for Rulemaking* seeking the reallocation of Channel 232A from Cambridge to nearby St. Michaels, Maryland. This "Application for Review" is filed on the 30th day subsequent

to the release of the Mass Media Bureau's **Memorandum Opinion and Order**, and thus it is timely filed. 47 C.F.R. §1.115(d). In so doing, the following is shown:

Preliminary Statement

1. This case is all about the refusal of the Mass Media Bureau to assist an African-American male with over four decades of experience in the broadcasting industry in circumventing the actions of a local zoning board in Talbot County, Maryland. Those actions have frustrated the construction of FM Broadcast Station WFBR, Channel 232A, which would serve listeners in on Maryland's mid-Eastern Shore. The Mass Media Bureau has engaged in a narrow, mechanistic application of a Commission policy. However, in doing so, the Mass Media Bureau has overlooked the overwhelming public interest benefits inherent in providing the means, at no cost to taxpayers and with no prejudice to anyone, for an African-American male to construct and operate an FM station on Maryland's Eastern Shore, long home to racism against African Americans.

2. It is historical fact that the Eastern Shore has had a less than exemplary history of fair treatment of its minority citizens. A manifestation of that unfairness was

the ultimate refusal by Talbot County authorities to grant a zoning variance to permit construction of the WFBR tower in a rural area of southern Talbot County near the town of Trappe. By being able to utilize an existing tower suitable for Class A FM broadcasting¹, CWA can bypass the Talbot County zoning authorities who by their actions seek to keep an African-American from operating an FM Broadcast Station in their county. However, to be able to do this, CWA needs to have Channel 232A reallocated from Cambridge to St. Michaels. The Mass Media Bureau has refused CWA's reallocation petition; CWA now seeks redress from the Commission *en banc* in the hope that the five Commissioners will grant relief in this case that will serve the public interest, convenience and necessity.

3. This petition is filed pursuant to Section 1.115(a) of the Rules, which provides that "[a]ny person aggrieved by any action taken pursuant to delegated authority may file an application requesting review of that action by the Commission".

¹This tower, also in Talbot County, has been used by one of the major Baltimore television stations in connection with a microwave station.

4. Pursuant to Section 1.115(b)(2)(iii) of the Rules, this Application for Review is filed because the action of the Mass Media Bureau involves a question of law or policy which has not previously been resolved by the Commission. Further, to the extent that the ruling below failed to take into account the minority status of CWA Broadcasting, Inc., this Application for Review is taken pursuant to Section 1.115(b)(2)(i) as the rulings below are in conflict with case precedent and established Commission policy.

Questions Presented For Review

5. This "Application for Review" presents the following questions of law:

(1) Whether an ALJ's award of comparative credit in MM Docket No. 87-421 for one civic activity in the city of license constitutes a "decisionally significant preference" within the meaning of **Memorandum Opinion and Order on Reconsideration in MM Docket 88-526**, 5 FCC Rcd 7094, 7097 (1990) which would justify the Mass Media Bureau in denying CWA's request to reallocate Channel 232A from Cambridge, Maryland to St. Michaels, Maryland.

(2) Whether the Mass Media Bureau's denial of CWA's "Petition for Rulemaking" to reallocate Channel 232A from Cambridge, Maryland to St. Michaels, Maryland was arbitrary and capricious.

(3) Whether it was error for the Mass Media Bureau to fail to consider CWA Broadcasting, Inc.'s status as a minority broadcaster in its resolution of the instant proceeding.

Factual Statement

6. CWA is 100 percent owned by an African-American, Charles W. Adams, Jr. Mr. Adams has worked in the broadcasting industry for over forty years, since the early 1950s. He was one of the first African-American citizens to have a regular job broadcasting to his fellow citizens in the state of Maryland. So far as we know, he is the only African-American to hold either a construction permit or a license to engage in FM Broadcasting on Maryland's Eastern Shore.

7. CWA filed its "Petition for Rulemaking" which led to the above-entitled proceeding after it had been cruelly denied zoning by Talbot County, Maryland for its transmitter site, which was to be located in a rural area near Trappe, Maryland, between Cambridge and Easton. The reallocation of Channel 232A from Cambridge to St. Michaels was a proposal designed to take advantage of an existing tower of a height suitable for Class A FM Broadcasting. As demonstrated in CWA's "Petition for Rulemaking", a St. Michaels FM station would serve substantial areas in common with a Class A FM station licensed to Cambridge and located at Trappe. CWA's proposal also had the added advantage of providing a first

local broadcast service to St. Michaels, without depriving Cambridge of its existing two full-time broadcast stations.² The provision of a first local transmission outlet to St. Michaels is an objective in furtherance of the Commission's mandate to allocate broadcast facilities in a "fair, efficient and equitable manner" to the "states and communities" pursuant to Section 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §307(b). See **FM Assignment Policies and Procedures**, 90 FCC 2d 88, 51 RR 2d 807, 810 (1982).

8. In dismissing CWA's "Petition for Rulemaking", the Acting Chief, Allocations Branch, cited a Commission policy stated in **Memorandum Opinion and Order on Reconsideration in MM Docket 88-526**, 5 FCC Rcd 7094, 7097 (1990):

[T]he Commission specifically stated that it would be concerned "if a situation were to arise where a licensee or permittee proposed to change its community of license, and that licensee or permittee had received in a comparative hearing a decisionally significant preference that would not have been granted had the comparative contest been for a station at the new proposed community".

Report and Order in MM Docket No. 92-291, at ¶4. Without analyzing the record facts in MM Docket No. 87-421, the

²Those stations are: WCEM(AM), 1240 kHz, 1 kW-U; and WCEM-FM, 106.3 Mhz, 3 kW e.r.p. and 298 ft. HAAT (source: **Broadcasting Yearbook**).

Cambridge, Maryland FM proceeding in which CWA won the construction permit for station WFBR, the Acting Chief summarized the result of Docket 87-421 as follows³: "the Administrative Law Judge awarded [CWA] a decisive 100% integration credit, enhanced by minority ownership and past civic activities within the service area". *Id.* at ¶4. The Acting Chief stated that "CWA has not addressed this issue". *Id.* at ¶4. Thereupon he dismissed the "Petition for Rulemaking".

9. In its "Petition for Reconsideration", CWA demonstrated that the civic activity credit received by CWA for just one civic activity in the city of Cambridge, Maryland--which would just be outside the 60 dBu contour of a St. Michaels station on Channel 232A--was not decisionally significant. Thus, the fact that CWA received such comparative credit for one civic activity does not contravene the policy stated by the Commission in Docket 88-526, *supra*, and is no bar to the reallocation of Channel 232A.

³The citations to Docket 87-421 are as follows: **Robert L. Purcell d/b/a Big Bay Broadcasting**, 3 FCC Rcd 6481 (Initial Decision of ALJ Edward J. Kuhlmann, 1988), *affirmed*, 4 FCC Rcd 4676, 66 RR 2d 982 (Rev. Bd. 1989), *rev. den.*, 5 FCC Rcd 1294 (1990).

10. CWA presented the following statement of facts on reconsideration. Four mutually-exclusive applications for Channel 232A came on for comparative hearing before ALJ Kuhlmann. Of those, applicant Philip & Eleanor D'Adamo d/b/a D'Adamo Communications (D'Adamo) was disqualified on three separate grounds. *Initial Decision*, 3 FCC Rcd 6481, 6486-87 (¶¶44-48).⁴

11. The remaining three applicants, CWA, Robert L. Purcell d/b/a Big Bay Broadcasting (Big Bay) and Eastern Shore Broadcasting, Limited Partnership (Eastern), were found basically qualified to be Commission licensees and were compared under the standard comparative issue.

12. No diversification demerits were assessed against any of these three applicants. *Id.*, 3 FCC Rcd at 6487, ¶49.

13. Under the criterion of "integration of ownership and management" which was decisionally significant at that time, both CWA and Big Bay received a decisionally significant preference *vis a vis* Eastern. Both CWA and Bib Bay proposed and received full-time integration credit for their respective 100% owners; by contrast, ALJ Kuhlmann

⁴It is well settled that only fully-qualified applicants can be compared under the standard comparative issue. *Guinan v. FCC*, 297 F.2d 782, 22 RR 2026 (D. C. Cir. 1962).

allowed only 33-1/3% integration credit for Eastern's proposal to integrate only one of its three owners into the management of its station.⁵ *Id.*, 3 FCC Rcd at 6487-88, ¶¶50-52.

14. Therefore, the decision in Docket 87-421 came down to the "qualitative enhancements" of Big Bay's Robert L. Purcell and CWA's Charles W. Adams, Jr.

15. About Mr. Purcell's "qualitative enhancements", ALJ Kuhlmann made the following findings of fact (*Initial Decision*, 3 FCC Rcd at 6484, ¶28):

Mr. Purcell proposes to move to Cambridge from Rockville, Maryland, where he now works and lives. Big Bay Exh. 3, at 2; Tr. 20. Mr. Purcell works in Rockville as a consulting broadcast engineer; he plans to either sell the business or reduce the time he spends to 10-15 hours per week. Big Bay Exh. 3, at 2. Previously, when Mr. Purcell owned interests in broadcast stations in New Castle, Pennsylvania, Freeland, Pennsylvania and Pocomoke City, Maryland, he did not participate in the day-to-day management. Big Bay Exh. 3, at 2; Tr. 29, 34. Mr. Purcell has no day-to-day-experience in operating a broadcast station. Tr. 33.⁶

⁵Once there is a disparity between quantitative integration proposals of 12½% or more, the party or parties with less integration credit are eliminated from further comparison under "qualitative enhancements". **The New Continental Broadcasting Company**, 88 FCC 2d 830, 50 RR 2d 1132-33 (Rev. Bd. 1981); **Van Buren Community Service Broadcasters, Inc.**, 87 FCC 2d 1018, 50 RR 2d 115, 119 (Rev. Bd. 1981).

⁶Although the *Initial Decision* does not state it, Mr. Purcell is a Caucasian male.

16. In the case of CWA's Mr. Adams' qualitative attributes, ALJ Kuhlmann wrote (*Initial Decision*, 4 FCC Rcd at 6484-85, ¶¶29-30):

Mr. Adams would move to a location within the proposed 1 mV/m contour, in the Cambridge area. CWA Exh. 2, at 1-2. Mr. Adams is black and has been employed as a radio broadcast announcer and personality at WANN, Annapolis, Maryland since 1952. CWA Exh. 2, at 4-5.

Mr. Adams claims to have participated in civic activities within the proposed service area. Between 1952 and 1980, he served as a master of ceremonies at the Cambridge Elks Lodge for socials and other events for about 20 hours per year. He was paid only gas money. CWA Ex. 2, at 4. Mr. Adams, from 1966 to 1978, had a similar arrangement with an Elks group in Easton, Maryland. *Id.*

17. Based on these findings of fact, ALJ Kuhlmann concluded that CWA had a "superior qualitative integration proposal". *Initial Decision*, 3 FCC Rcd at 6488, ¶55. ALJ Kuhlmann determined that Mr. Adams was Black and had substantial radio broadcast experience, two attributes that Mr. Purcell did not possess. Further, he held that neither Mr. Purcell nor Mr. Adams resided within the proposed service area, although Mr. Adams "does have some association with the community, having participated in local community activities". *Id.*, at ¶53.

18. Neither the Review Board nor the Commission disturbed these findings of fact or conclusions of law.

19. As can be seen from the foregoing, there were only two fully-qualified applicants in Docket 87-421 entitled to be compared on "qualitative enhancements" were Big Bay and CWA. And, as can be seen from the foregoing, other than a proposal of its 100% owner to move to Cambridge, Big Bay was not entitled to any qualitative enhancements.

20. By contrast, CWA's 100% owner, Charles W. Adams, Jr. proposed to move to the 1 mV/m contour of the proposed station, which contour included large portions of Talbot County, Maryland which are within the 1 mv/m contour of a CWA operation on Channel 232A at St. Michaels. However, the decisional preference was based on the fact that Mr. Adams was a member of a recognized minority group (African-American), and Big Bay's Mr. Purcell was not. Since neither applicant was entitled to a preference on the basis of past local residence⁷, Mr. Adams minority status was as a matter

⁷At the time MM Docket No. 87-421 was decided, the Review Board's practice was to treat local residence and civic participation as separate enhancing criteria, with past local residence of greater importance than civic activities. See e.g. **Radio Jonesboro, Inc.**, 96 FCC 2d 1106, 1109 (Rev. Bd. 1984) and **Ronald Sorenson**, 5 FCC Rcd 3144 (Rev. Bd. 1990). It was not until the Commission's *en banc* ruling in **Ronald Sorenson**, 6 FCC Rcd 1952, 1952-53 (1991),

of law decisionally significant in and of itself, without reference to any other enhancing criteria. **Waters Broadcasting Corp.**, 91 FCC 2d 1260, 52 RR 2d 1063 (1982), *aff'd sub nom. West Michigan Broadcasting Co. v. FCC*, 735 F.2d 601, 56 RR 2d 104 (D. C. Cir. 1984). In **Waters**, the Commission enunciated the principle that minority ownership and local residence were equal in weight, and superior to other enhancements such as broadcast experience.

21. Therefore, Docket 87-421 did not turn on "civic activities". And even if it could be argued that the case did turn on "civic activities", only one of Mr. Adams two civic activities is outside the 1 mV/m contour of a proposed St. Michaels operation: the Cambridge Black Elks Lodge. The Easton Black Elks Lodge is located within the 1 mV/m contour of both WFBR's authorized facility and the proposed St. Michaels operation. See Exhibit A, attached hereto, a mark-up of a map prepared on behalf of CWA and submitted earlier in this proceeding. Even with just one civic activity, CWA would have still prevailed over Big Bay, whose owner lived and worked some 70 miles away in Rockville,

where it was definitively held that civic activities were henceforth to be considered with local residence as a unified factor.

north of Washington, D. C., and otherwise had no connection with the Cambridge/Easton/St. Michaels area.

22. Moreover, had MM Docket No. 87-421 been a contest for St. Michaels, rather than for Cambridge, CWA would have been entitled to a decisive preference for past local residence. As shown on Exhibit A appended hereto, it turns out that Mr. Adams residence in Annapolis is within the 1 mV/m contour of a Class A FM operation at St. Michaels. Mr. Adams has lived in Annapolis for over 40 years, and was employed at station WANN(AM), Annapolis for most of that time.

23. CWA thus argued in its Petition for Reconsideration that, as can be seen from the facts set forth in paragraphs 10-22 *supra*, the Commission's policy stated in Docket 88-526 is not violated by the granting of CWA's "Petition for Rulemaking" to permit the reallocation of Channel 232A from Cambridge to St. Michaels, Maryland. "Civic activities" were not decisionally significant in the decision in Docket 87-421. Rather, the minority status of CWA's sole stockholder tipped the balance in CWA's favor. Moreover, CWA's sole stockholder had 40 years of day-to-day experience in the operation of a radio station, whereas its

competitor, Mr. Purcell, had no experience in the day-to-day operation of a radio station. With respect to the civic activities for which CWA was given credit, one is outside the 1 mV/m contour of the proposed St. Michaels operation, while the other is within its 1 mV/m contour. CWA's Mr. Adams' proposal to move to a location within the 1 mV/m contour of the presently authorized WFBR facility permits him to locate to a point within the 1 mV/m contour of the St. Michaels facility.

24. The Mass Media Bureau was unmoved by CWA's difficulties with the Talbot County zoning board, and did not care a jot about the factual showing made in its Petition for Reconsideration, none of which was contraverted by CWA's opponent in this proceeding, white-owned Prettyman Broadcasting Company, Inc., an established owner of broadcast stations in Maryland. At paragraph 5 of its *Memorandum Opinion and Order*, DA 95-1594, *supra*, the Bureau wrote:

The record in the hearing proceeding concerning Channel 232A at Cambridge clearly indicates CWA was awarded the construction permit for Channel 232A at Cambridge in a comparative hearing where it received credit for past civic activities. Although it also received qualitative enhancements for minority ownership and past broadcast experience, the past civic activities at Cambridge were also part of this package of qualitative

enhancements that were relied upon by the Administrative Law Judge. Therefore, we continue to believe that CWA falls squarely within the Commission's policy requiring denial of its change of community of license proposal.

Argument

25. This fact pattern stated above appears to us to state a question of first impression for the Commission to decide: Was the award to CWA in Docket 87-421 of comparative credit based on exactly one civic activity in the city of Cambridge "a decisionally significant preference", and thereby resulted in the grant of CWA's application at Cambridge; and if so, would the CWA application not have been granted were it not awarded the comparative credit for the one civic activity.

26. The Bureau cites no case law in support of its resolution of this question against CWA. Rather, the Bureau shuts the door in CWA's face by holding that the credit for one civic activity was "part of this package of qualitative enhancements that were relied upon by the Administrative Law Judge".

27. This is not what the Commission's policy in Docket 88-526 states. That policy does not speak in terms of "a package of qualitative enhancements". That policy does

speak in terms of whether a particular comparative credit was decisionally significant.

28. This is why the Bureau's handling of this case below is so wrong, so unfair and so inimical to the public interest. The Bureau's mechanistic expansion of the policy in Docket 88-526 to cover a "package", rather than the one civic activity which would be outside the 60 dBu contour of a St. Michaels' station, is actually the creation of new policy by the Bureau which, on the facts of this case, serves to prevent the initiation of a new broadcast service by an African-American male to a region with a significant minority population.

29. Were the Bureau to have been willing to consider the facts of this case, and to see that the one civic activity that would fall outside the 60 dBu contour is not of decisional significance--CWA would have won the hearing in Docket 87-421 "going away" anyhow--it could have acted in the public interest by allowing the reallocation to St. Michaels. This would have been (and still can be) an important step in redressing the wrongs which have been visited on African-American citizens in Maryland. The Commission is on record as having a program in its

regulation of the broadcasting industry to take reasonable actions which do not hurt other parties but which aid and assist minority broadcasters. ***Metro Broadcasting, Inc. v. FCC***, 497 U.S. 547 (1990). CWA calls upon the Commission to grant CWA the leeway it needs to bring WFBR to the air.

30. Subsequent to the filing of our "Petition for Reconsideration", the Chairman of the Commission, the Honorable Reed E. Hundt, made a significant speech to the National Urban League Conference⁸. Chairman Hundt explicated his policies on fostering increased participation by females and members of minority groups (such as CWA and its owner, Charles W. Adams, Jr.) in broadcasting and telecommunications. The following are quotes from that speech:

- [T]he chasm I am talking about is that between what Cervantes in Don Quixote called the difference between the haves and the have-nots. In our country, to a large degree, this is the chasm between a world that is largely white and a world that isn't, between a suburban world that is largely well-off by any objective standard and an urban world that isn't. (*Id.* at 1).

- All our lifetimes there have been two worlds in America joined by few, if any bridges: the largely white world of opportunity and reward for hard work, and the largely nonwhite world of

⁸July 26, 1994. The FCC released a copy of the text of this speech, mimeo no. 44077.

diminished chances and persistent injustice (*Id.* at 1).

- [W]e at the FCC have three particular goals:

- 1) We want to promote equal employment opportunity;

- 2) We want to have the ownership and management ranks in this sector look more like the people they serve;

- 3) We want to improve education opportunities for urban and disadvantaged schools. (*Id.* at 4).

- At the FCC, we are also working hard to make sure that African-Americans have fair opportunities to work in the new industries of the communications revolution. (*Id.* at 4).

- Our second goal is to promote ownership and management opportunities by minorities and women in the communications business. * * * [W]e want to make sure that those who have historically been discriminated against will have a chance to participate as competitors and owners. * * * While thousands of minorities labored at building the railroads, not one had a true or fair opportunity to own and operate them (*Id.* at 5).

- It might be that if African-Americans had somehow been included as owners in these industries, African-Americans would not today be so disproportionately unemployed, poor, impacted by poor health services, and affected by violence. (*Id.* at 6).

- [A]t this time, minorities are seriously underrepresented in the ownership of telecommunications businesses. Let's look at the record.

-- There are 490 minority-owned telecommunications firms -- of approximately 98,000 firms in the industry -- one half of one percent.

-- Of about 10,000 commercial broadcast radio and television stations, only 300 are minority-controlled -- about 20 of 1000 television licenses. [emphasis supplied]

-- Of the approximately 7,500 cable operators, nine are minority controlled. That's just over one-tenth of one percent.

-- Of nearly 1,700 electronic computing equipment manufacturers only one of these companies is owned by an African-American. That's five hundredths of one percent.

Now, what are we going to do about these numbers? (*Id.* at 6).

- Twenty-six years ago Bobby Kennedy was here in Indiana the day of the murder of Dr. Martin Luther King. He talked about the choice before us: "Among us are millions who wish to be part of this society -- to share in its abundance, its opportunity, and its purposes. We can deny this wish or work to make it come true." (*Id.* at 9).

21. Of course, while the Chairman was making this statement of policy to one of the most visible African-American organizations, the Mass Media Bureau was working to prevent CWA from finding a way to initiate service to the public over WFBR. Thus, Chairman Hundt's claim that "[a]t the FCC, we are also working hard to make sure that African-Americans have fair opportunities to work in the new industries of the communications revolution" was, to say the least, not correct. In this case, the Mass Media Bureau

defied Chairman Hundt's public statements on minority opportunities in; when CWA and its owner Charles W. Adams, Jr., a qualified African-American male, needed minor regulatory relief to bring a minority-owned and operated facility to life on Maryland's Eastern Shore, and was clearly entitled to relief under the Docket 88-526 policy, it got the door slammed in its face. To quote Chairman Hundt, "Now, what are we going to do . . . ?"

22. The Mass Media Bureau's failure to take cognizance of CWA's minority status and to follow the Commission's long-standing policies to aid and abet minority ownership is reversible error under the appellate precedents applicable to the Commission. See **Garrett Broadcasting Service v. FCC**, 513 F.2d 1056, 1062-63 (D. C. Cir. 1975) and cases cited therein. The failure of the Mass Media Bureau to consider the public interest factors inherent in CWA's proposal in this docket is reversible error.

Conclusion

WHEREFORE, CWA Broadcasting, Inc. urges that this Application for Review **BE GRANTED**, and that the Commission **EXPEDITIOUSLY REALLOCATE** FM Channel 232A from Cambridge, Maryland to St. Michaels, Maryland and modify the current

authorization for FM Broadcast Station WFBR to specify St.
Michaels, Maryland as its community of license.

Respectfully submitted,

CWA BROADCASTING, INC.

By

A handwritten signature in dark ink, appearing to read "D. Kelly", written over a horizontal line.

Dennis J. Kelly

(D. C. Bar #292631)

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